

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
TROOPER 1, : 22-cv-00893-LDH-TAM
:
Plaintiff, :
:
- versus - : U.S. Courthouse
: Brooklyn, New York
NEW YORK STATE POLICE, et al., :
: November 13, 2024
Defendants : 4:34 p.m.
-----X

TRANSCRIPT OF CIVIL CAUSE FOR DISCOVERY CONFERENCE
BEFORE THE HONORABLE TARYN A. MERKL
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:
(VIA VIDEO/AUDIO)

For the Plaintiff: **Valdi Licul, Esq.**
Katherine Vask, Esq.
Wigdor LLP
85 Fifth Avenue, Fifth Floor
New York, NY 10003

For the Defendants: **Daniel J. Moore, Esq.**
Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534

(Appearances continue on next page)

Transcription Service: **Transcriptions Plus II, Inc.**
61 Beatrice Avenue
West Islip, New York 11795
RL.Transcriptions2@gmail.com

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APPEARANCES CONTINUED

For the Defendants:

Rita M. Glavin, Esq.

Glavin PLLC
156 West 56th St., Ste. #2004
New York, NY 10019

Theresa Trzaskoma, Esq.

Sher Tremonte LLP
90 Broad Street
New York, NY 10004

Catherine Foti, Esq.

Kayasha Lyons, Esq.

Morvillo, Abramowitz, Grand,
Iason & Anello P.C.
565 Fifth Avenue
New York, NY 10017

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1 THE CLERK: This is Civil Cause for Discovery
2 Conference, docket 22-cv-893, *Trooper 1 v. New York State*
3 *Police, et al.*

4 Before asking the parties to state their
5 appearance, I would like to note the following. Persons
6 granted remote access to proceedings are reminded of the
7 general prohibition against photographing, recording, and
8 re-broadcasting of court proceedings. Violation of these
9 prohibitions may result in sanctions including removal of
10 court-issued media credentials, restricted entry to
11 future hearings, denial of entry to future hearings, or
12 any other sanctions deemed necessary by the Court.

13 Will the parties please state their appearances
14 for the record starting with the plaintiff?

15 MR. LICUL: Good afternoon, your Honor. Valdi
16 Licul; Wigdor LLP, for the plaintiff Trooper 1. And I'm
17 here with my colleague, Katherine Vask.

18 THE COURT: Could you spell Ms. Bask's [sic]
19 last name for me, sir?

20 MR. LICUL: The last name is V-A-S-K. She
21 hasn't yet filed a notice of appearance but will do so
22 shortly.

23 THE COURT: Okay. I'm sorry, did you say D as
24 in dog or B as in boy?

25 MR. LICUL: V as in Victor.

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1 THE COURT: V as in Victor. So I'm glad I
2 asked. Okay, thank you.

3 MR. LICUL: You're welcome.

4 THE COURT: And on behalf of the defendants?

5 MR. MOORE: Your Honor, Daniel Moore from the
6 Harris Beach firm on behalf of the New York State Police.

7 THE COURT: Okay. For Mr. Cuomo, who do we
8 have?

9 MS. GLAVIN: Good afternoon, your Honor. Rita
10 Glavin, G-L-A-V-I-N, at Glavin PLLC. I am here along
11 with my co-counsel Theresa Trzaskoma, T-R-Z-A-S-K-O-M-A
12 of Sher Tremonte for former Governor Andrew M. Cuomo.

13 THE COURT: Okay. Anybody else on the line on
14 behalf of the parties?

15 MS. FOTI: Yes, your Honor. Catherine Foti.
16 I'm here with Kayasha Lyons from Morvillo, Abramowitz,
17 Grand, Iason & Anello on behalf of Melissa DeRosa and
18 Richard Azzopardi to the extent there's a potential
19 appeal.

20 THE COURT: I understand. And to the extent --
21 so just remind me, Ms. Foti, as to the current status of
22 the briefing as to the amended complaint. Was there --
23 or maybe Mr. Licul is the best person to ask. Were you
24 seeking to add some facts against Mr. Azzopardi or is it
25 related to Ms. DeRosa?

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1 MS. FOTI: It was only --

2 MR. LICUL: Just Ms. DeRosa. The motion --
3 sorry, Cathy.

4 MS. FOTI: No, go ahead.

5 MR. LICUL: So not as to Mr. Azzopardi, just
6 Ms. DeRosa. The motion is fully briefed and we're
7 waiting for a decision on the motion to amend.

8 THE COURT: That was my understanding of the
9 papers when I just reviewed them in connection with the
10 most recent opinion we issued in the OAG docket and I
11 just wanted to confirm that I was reading the papers
12 correctly. So thank you for that. It just helps me to
13 understand the framing in terms of who's still in the
14 case and what the discovery issues are.

15 So I'm told that there is a nascent or perhaps
16 ripening dispute regarding a deposition issue. Mr.
17 Licul, would you like to give me an overview of where we
18 are?

19 MR. LICUL: Certainly, your Honor. Several
20 weeks ago Trooper 1 was deposed. We were prepared to
21 move forward with the entire deposition that day. We got
22 through about six hours of the seven hours but the court
23 reporter had to leave, which is fine. So we scheduled
24 the second day which is this coming Friday. And we made
25 our position known to the defendant that we believe this

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1 deposition could be done in the seven hours under the
2 federal rules. Yesterday we got an email stating that
3 they needed essentially a full second day.

4 Our response was prompt and it was that we
5 didn't believe that to be true. But nevertheless, we
6 would consent to an additional two hours, in other words,
7 completing the last hour and an additional two hours to
8 complete the deposition. And we believe that it's more
9 than enough. I've gone over the transcript of the first
10 day of Trooper 1's deposition which of course is in
11 addition to her testimony before the AG and it covers
12 virtually all of the topics and it covers the
13 investigation, it's all of the incidents with the
14 governor. It covers her communications, her search for
15 documents.

16 The only thing that I can see plainly that's
17 not yet covered is the issue of damages. So you know,
18 that's a fair point. But everything else has been
19 covered. No one has told us what other topics they need
20 to fill an additional seven hours.

21 Unfortunately, when we made our proposal for an
22 additional two hours we didn't get a response back, you
23 know, with a counterproposal. So here we are. I'm sorry
24 I have to bother you. But that's essentially framing the
25 issue, your Honor.

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1 THE COURT: All right. And Mr. Licul, do you
2 have a sense of which defendants are driving this request
3 for the additional time? Like who spent the bulk of the
4 time in the first six hours?

5 MR. LICUL: Well, it was entirely the
6 governor's counsel. And this was a topic of discussion
7 as well. We repeatedly reminded defendant that, you
8 know, even though there are multiple defendants, the
9 issues overlap. And so we asked them to coordinate
10 amongst themselves because clearly they don't each get to
11 ask the same questions. But the only folks doing the
12 questioning for the first six hours were counsel for the
13 governor.

14 THE COURT: Okay. All right. So who on the
15 defense side of the table wants to take the lead on where
16 you believe we are and why the parties can't resolve the
17 outstanding deposition in three additional hours which
18 would amount to more time than you're entitled to under
19 the rules. Who's taking the lead there?

20 MR. MOORE: Your Honor, this is Dan Moore. And
21 first, thank you very much for making the time and
22 assisting us with this dispute.

23 This is a multiparty case and we understand
24 that in an ordinary case seven hours are allowed. But
25 you know, of course the notes make, you know, allow for

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1 the fact that in multiparty cases sometimes there's a
2 need to take more than seven hours. And you know, in
3 those cases the parties need to work, you know, one side
4 of the table needs to work together to avoid duplicative
5 questioning. And you know, one attorney ought to be
6 asking the questions with respect to our similar
7 interests. And that's what's been done here. But some
8 things need to be considered here.

9 First is this is a 35(h) complaint with 200 or
10 so allegations. There have been tens of thousands of
11 documents produced in discovery. There have been text
12 messages produced that were not produced by the plaintiff
13 but go back and forth to and from the plaintiff that we
14 were not aware of until we found them through other means
15 of discovery.

16 Two days before part one of the deposition on
17 October 2nd, two days before, about 500 medical records
18 were dumped on the defendants. So there is a lot to this
19 case.

20 So understanding we want to be as surgical as
21 we can in our questioning, the defense team has worked
22 hard to ensure that we are not asking the same questions
23 that -- there is one attorney, that would be Ms. Glavin,
24 Governor Cuomo's counsel, who's going to handle most of
25 the questioning and with our common interests she will be

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1 asking those questions.

2 But there are certain questions that New York
3 State Police is most interested in that are unique to its
4 defenses. In this case there are Title 7 claims against
5 only the New York State Police and there are unique
6 defenses to Title 7 that don't apply to the other
7 defendants. And there are questions about the New York
8 State Police issues that we believe are important and
9 that are separate from what the governor's defense will
10 be.

11 So you know, our sense of this, your Honor, is
12 that it's very hard to schedule all of the attorneys' be
13 time. There are about eight attorneys that are involved.
14 We have a day now where everybody can be there. We won't
15 have to come back. We've agreed to limit this to just
16 one day. Everybody will be there.

17 If we don't have the time we need, we believe
18 it will be very unfair. For example, if this deposition
19 were to end while Ms. Glavin is still moving through the
20 common interest questions, then that would preclude the
21 New York State Police from asking any questions at all.

22 And I might say, and Ms. Glavin can probably
23 speak to this better than I can, but there are still --
24 when the deposition was adjourned on October 2nd, there
25 were still more than half of the issues for the incidents

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1 raised in the complaint we hadn't gotten to. We still
2 hadn't gotten to the damages.

3 And again, there are in total thousands of
4 pages of medical records in this case. So there are a
5 lot of text messages that go back and forth that we need
6 to have answers on.

7 So your Honor, we're just asking just one day.
8 That's it. We'll be done. And then we won't need to
9 come back. We don't think that's unreasonable.

10 One of the things that the committee in its
11 notes provided said that preoccupation with timing is to
12 be avoided. So since this would not seem to
13 inconvenience anybody, we're all going to be there
14 anyway, we'll limit the deposition to just one day. We
15 think it would be most reasonable to just get it done.

16 THE COURT: So how long do you think that the
17 New York State Police specifically needs beyond Ms.
18 Glavin's follow-up that she's planning to cover?

19 MR. MOORE: Your Honor, we would need
20 approximately two hours is our sense, or approximately
21 two and a half hours. And I know that there are
22 questions that counsel for the individual defendant, Ms.
23 DeRosa, also has that I believe are unique to her
24 situation.

25 THE COURT: Okay.

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1 MS. FOTI: Yes, your Honor, just to add what
2 our position is here, there were no questions about my
3 individual defendants that were asked in the first
4 session. You know, there are very specific allegations
5 as to Ms. DeRosa. And I'm not even mentioning the other
6 party right now who's not an active member of the suit.
7 But still, there's still specific allegations that I
8 really do need to inquire about especially if the judge
9 decides that she's (indiscernible), you know, in this
10 case.

11 We have talked to Mr. Licul. It's actually a
12 number of additional discussions than I think he
13 summarized. You know, he certainly got to the gist of
14 what the issues were in terms of timing. But we offered
15 to do whatever we could within an hour, hour and a half
16 for my client.

17 THE COURT: Okay. So as I hear you so far, Mr.
18 Moore is seeking two to two and a half hours. You're
19 seeking an hour to an hour and a half.

20 Ms. Glavin, you already had six hours. What
21 are you looking to accomplish on Friday?

22 MS. GLAVIN: Sure, your Honor. Thank you.
23 First, with respect to, you know, what has not been
24 covered, Mr. Licul is incorrect that everything has been
25 covered and Mr. Moore is correct that there are about,

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1 we're only through about half of the incident that
2 Trooper 1 has personally alleged involved her in the
3 complaint.

4 So we need to cover incidents still. We've
5 gotten through, I don't know, maybe eight to ten of them
6 and we have another eight to ten to go. And I should,
7 you know, inform the Court that there are also with
8 respect to allegations during the course of her
9 deposition she provided some new information and
10 allegations that she had never made before which required
11 exploration on our part.

12 So that first is to finish through her
13 allegations and complaint. And again, I have been tasked
14 by co-counsel with getting through those allegations on
15 behalf of the remaining defendants.

16 Second, and I think your Honor is aware of
17 this, is that it came out in the deposition that Trooper
18 1 intentionally deleted text messages that she had with
19 other state troopers in which she was discussing her
20 allegations, the Attorney General investigation, and
21 Governor Cuomo.

22 Shortly before her deposition, we received a
23 production from another trooper on the PSU with whom she
24 was communicating of many, many text messages with
25 Trooper 1. We've gotten through a number of those text

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1 messages but there are still some more to go through.

2 In addition, we have not -- she has included
3 allegations with respect to another complainant and we do
4 have to ask her just a series of questions about each of
5 those for reasons I'm sure your Honor can understand and
6 hopefully can tee up our motion practice.

7 In addition, we also need to explore, and this
8 is a common interest, about some -- there were a number
9 of issues that she was having at work and in her personal
10 life during this period of time that are unrelated to
11 Governor Cuomo and issues concerning her dislike of her
12 job, wanting to leave her job, et cetera, that we need to
13 explore. It also goes to damages about intervening
14 causes of stress.

15 On the damages issue for which I've been
16 tasked, you know, by the defendants to cover, your Honor
17 is aware she had at least six different health providers,
18 primarily mental health providers. 48 hours before her
19 deposition in the first day, plaintiff produced 500 new
20 pages of medical records that covered a period of three
21 years, and they're pretty dense. And you know, there are
22 conflicting reports of what she provided various
23 healthcare providers as well as intervening we think
24 causes that go to damages that we need to get through.

25 THE COURT: Which three-year period?

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1 MS. GLAVIN: I'm sorry, your Honor, I didn't
2 understand.

3 THE COURT: Which three years are you talking
4 about?

5 MS. GLAVIN: From 2021 to 2024.

6 THE COURT: Okay. So after the events at issue
7 in this case for the most part?

8 MS. GLAVIN: Yes. And some during but it
9 appears that she did not go to get mental health, any
10 type of mental health treatment until after the Attorney
11 General's report came out.

12 THE COURT: Okay. Thank you.

13 MS. GLAVIN: And there are just what she did
14 and didn't discuss. And there are -- and in addition, we
15 also have worker's comp records that were recently
16 provided by the New York State Police shortly before her
17 deposition and we need to go through some of those as
18 well.

19 And I think there are also some phone records
20 we need to get through and we're trying to streamline
21 that as well.

22 Just so your Honor understands, we work -- I
23 think you started by asking us which of the defendants is
24 driving this. And what I want your Honor to know is that
25 we have worked quite collaboratively, the state police,

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1 Ms. DeRosa's counsel, and myself, to go through what each
2 of us plan to cover, who can cover, you know, common
3 interests versus others to divide this up and do it as
4 efficiently as possible. And that's, you know, what we
5 aim to do. And everybody is available to do that and get
6 this done on Friday. And given --

7 THE COURT: But your list of items is very
8 ambitious, Ms. Glavin, especially if the other attorneys
9 need time. So how much time do you expect would be
10 required for everything that you just discussed in light
11 of how long things took in the prior deposition? I mean
12 I'm concerned, frankly --

13 MS. GLAVIN: Yeah, no, I agree. I agree with
14 you.

15 THE COURT: No, let me finish, please. I'm
16 concerned that you said you only covered about eight to
17 ten of the incidents in the first six hours and that you
18 still have eight to ten incidents to cover. You have to
19 make strategic choices when you know you have a limited
20 time in her deposition. And this is a single plaintiff
21 case and it should not be that -- this is not the same
22 thing as conducting proffer. You know, you have to be
23 more strategic. So how much time do you think you need?

24 MS. GLAVIN: I think I have tried to slim this
25 down and in talking with defense counsel we think we can

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1 get it done in three to four hours meaning all those
2 topics that I just discussed with you. I mean my goal is
3 to get all of those topics done in three hours. That's
4 the plan. But again, I don't know what she's going to
5 answer on some of these.

6 And you know, Judge, look I get it but you know
7 on some depositions, we've been doing a number of
8 depositions in the Bennett case and they have taken
9 longer. We've done depositions in the Bennett case that
10 have actually taken longer than we initially thought that
11 they were going to take.

12 THE COURT: Right.

13 MS. GLAVIN: And I will say that, you know,
14 this is an important case. There are three defendants.
15 This is allegations about approximately 20 different
16 incidents over three years or more. And some of the
17 information that we got in day one of the deposition was
18 brand new.

19 THE COURT: Right. All right. Mr. Licul,
20 the --

21 MR. LICUL: Yes.

22 THE COURT: -- defendants as a group make a
23 somewhat compelling point that this is a multi-defendant
24 case and these are complicated allegations. It's of
25 course a little concerning if true that they received

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1 complex medical records shortly before the deposition.
2 That can slow things down a little bit.

3 So what is your position in light of all of the
4 requests? Basically, they think they can get it done if
5 you do the additional seven hours. Two hours or so for
6 the New York State Police, an hour or two, two to two and
7 a half for the New York State Police, one to one and a
8 half for Ms. Foti's client. I'm assuming you're going to
9 focus on Ms. DeRosa, Ms. Foti. And then another, you
10 know, three to four hours for Mr. Cuomo to cover the bulk
11 of the allegations since it sounds as though Ms. Glavin
12 is taking the laboring on covering the specific
13 incidents, the texts, and things like that.

14 So what is your reaction to all of that, Mr.
15 Licul?

16 MR. LICUL: My reaction, your Honor, is that
17 the allegations by my client here, that what she
18 personally observed are no different and in fact
19 functionally less, fewer of them than in almost all of
20 the cases that I have where a deposition is done in seven
21 hours.

22 And I would like to say we disagree about what
23 incidents were covered.

24 And I'd like to tell you, your Honor, I just
25 reviewed the transcript and here are the subjects that

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1 were covered just regarding the incidents with Mr. Cuomo.

2 The incident where he touched her stomach; the
3 incident where he's asking her personal questions about
4 marriage and her sex life; his offer to provide her a
5 tour of the mansion; the allegation that he was flirty
6 and creepy; the questions by Governor Cuomo about why
7 Trooper 1 doesn't wear a dress; his request for hugs and
8 kisses; his efforts to seek her out at events to pay
9 attention to her; his conduct towards other female
10 members of the PSU; the holiday party where Mr. Cuomo
11 directed Trooper 1 not to reveal to anyone what they
12 discussed; the culture of sexism in New York State
13 Police; the elevator incident where he ran his finger
14 down Trooper 1's back.

15 There was extensive questioning about whether
16 Cuomo was known to joke. There was extensive questioning
17 about Trooper 1's promotion to the PSU and how that
18 happened. There were questions about her communications
19 with her colleagues at various events. There were also
20 questions that had nothing to do with the case but they
21 spent time with. As your Honor understands that's a
22 strategic decision. For example, whether members of the
23 PSU agreed with Mr. Cuomo's political views regarding
24 vaccinations and masks and bail reform; about some
25 incident where the governor transferred a bunch of PSU

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1 supervisors because of some fire. I don't know what it
2 has to do with the case but we spent time on that. All
3 right?

4 So I don't agree that there are half the
5 allegations to go. If there are, that's news to me. I
6 think most of this stuff has been covered. And as your
7 Honor knows, if you give people more time, another seven
8 hours, they will fill up that time and often it's not
9 very efficient.

10 I still don't know from New York State Police
11 or from Ms. DeRosa what unique issues they have. And I
12 agree that the damages are something.

13 And finally, your Honor, you know, lots of
14 cases have 10,000 documents or 50 or 100,000 documents.
15 It doesn't mean you get to ask everyone about each
16 document. The documents speak for themselves. You have
17 to make some decisions about what to ask about.

18 And frankly, your Honor, I also think that this
19 is a bit of an ambush. We clearly made our point known
20 that we were going to hold them to the seven hours and
21 then we modified our position to try to accommodate and
22 avoid this. But to be told three days before a
23 deposition we need a whole other day feels pretty
24 opportunistic to us and it's unnecessary. So that's our
25 position.

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1 MS. GLAVIN: Your Honor, this is Ms. Glavin.
2 Could I just be heard on what was covered and not
3 covered? Because I just want to make the record if
4 that's okay.

5 THE COURT: Sure.

6 MS. GLAVIN: So Mr. Licul is incorrect. We did
7 not cover the Belmont stomach touching incident. He can
8 look in the transcript. I'm very aware of what was
9 covered and not covered because I'm doing the
10 questioning. That was September 2019.

11 We did not cover the incident about whether the
12 governor had a conversation about asking her to go
13 upstairs. We did not cover the incident of her
14 allegation that the government remain a comment to
15 another female trooper about going upstairs. We never
16 covered the incident where she claims the governor
17 claimed you're too old for me and can you handle pain?
18 We did not cover the October 2019 Low Memorial incident.
19 We did not cover the 2020 incident where she claimed the
20 governor tried to kiss her. We did not cover the January
21 2021 incident where he said you could drive my car. We
22 did not cover the Moynihan Hall incident. We did not
23 cover the sunglasses comment.

24 With respect to Mr. Licul's claim that
25 irrelevant questions were asked about views of other

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1 state troopers, this came because of text exchanges that
2 Trooper 1 had discussing the politics of Governor Cuomo
3 that she disagreed with, text messages with Charlie Brown
4 and text messages and text messages with Kyle
5 Shillingford. It goes to state of mind.

6 With respect to the issue about troopers being
7 removed or quote/unquote retaliated against. Trooper 1
8 includes in her complaint, she makes the allegation that
9 she believed Governor Cuomo to be vindictive or
10 retaliatory towards other troopers. Those incidents are
11 discussed in text messages that she destroyed and we got
12 from another trooper or another source.

13 And with respect to, you know, Mr. Licul saying
14 that he's been ambushed, we have said to him that we
15 thought we were going to need more time. And we had
16 hoped -- I mean Judge, we're not that far apart here.
17 We're not asking, you know, two additional days. Mr.
18 Licul saying get it done in two additional hours, we're
19 saying a full day of seven hours while everyone is
20 available and let's just get it done. And I don't think
21 it's inherently unreasonable in a case with the degree of
22 medical providers, the volume of those records, the
23 number of allegations that have been made, the fact that
24 there were a number of text messages that she destroyed,
25 most if not all of her text messages discussing this case

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1 and investigation.

2 And so therefore, when we had gotten them from
3 other sources and they relate to a view about the
4 governor or a bias had absolutely nothing to do with her
5 feeling that the governor had harassed her, we have to
6 ask about that. But we have really tried to be good
7 about this and respect for the process.

8 THE COURT: Mr. Licul, is there anything you'd
9 like to say in response?

10 MR. LICUL: Yeah. As Ms. Glavin was speaking,
11 I'm looking at the transcript. So I would be looking on
12 page 226 of the transcript. I don't expect to read this
13 entirely for your Honor, but there's a question by Ms.
14 Glavin about the tour. Clearly she asked about that.
15 There's discussion about the touching of the stomach.

16 I mean so I just, you know, again, I think they
17 need to be, I think they need to -- they can't go back
18 and keep asking the same questions which I think was a
19 big problem the first time around.

20 But other than that, we'll stand on our current
21 argument.

22 THE COURT: Ms. Foti, is there anything you'd
23 like to say?

24 MS. FOTI: Who was that to?

25 THE COURT: Ms. Foti.

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1 MS. FOTI: For me? For me? I wasn't certain,
2 I could hear you. I'm sorry, your Honor.

3 The only thing I want to say is that I am
4 concerned about the concept that we're somehow ambushing
5 Mr. Licul. We had been discussing this at some length
6 trying to come to an agreement and we have not been able
7 to come to an agreement. That's certainly the reason
8 we've come to you. We really tried to avoid having to
9 involve the Court in this discussion.

10 THE COURT: Okay. And anything you'd like to
11 add, Mr. Moore?

12 MR. MOORE: Your Honor, not much. Again, thank
13 you for your time. I think here this is a time and place
14 where we have everybody together. I just don't see
15 really how this could be an unreasonable to just have one
16 more day to get this done. We'll all be there. We've
17 agreed to limit things. We worked really hard to ensure
18 that we are not asking duplicative questions. And you
19 know, it's going to be hard to get this done in seven
20 hours but we're going to do it. And then we'll be done
21 with it.

22 So I'd kindly ask the Court to consider that,
23 you know, these are questions that need to be answered in
24 a complicated case and given the magnitude of what we
25 have before us, I think it's a very reasonable proposal.

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1 THE COURT: So Mr. Licul, as we have observed
2 and/or joked in the very many appearances we've had in
3 this case, the case is complicated. Whether or not it
4 needs to be complicated is a different question. But it
5 has become very complicated as you know.

6 My concern, sir, is that if I give them four
7 hours say, (indiscernible), if I give them four hours,
8 what I'm going to be facing on Friday afternoon is a
9 motion for a whole other day. And what I'm wondering,
10 Mr. Licul, is if we can have a firm agreement here on the
11 record that this is it for all times and there's not
12 going to be any subsequent application, the parties are
13 going to stick to that.

14 So Mr. Licul, what are your thoughts on that
15 concern?

16 MR. LICUL: I mean, your Honor, in an ideal
17 world -- well first, let me address the issue of the
18 complications. I realize your Honor is probably
19 referring to the allegations about the other women. But
20 again, you know, that doesn't take that much time because
21 those are --

22 THE COURT: No, I'm just referring to how
23 complicated a single plaintiff --

24 MR. LICUL: I understand.

25 THE COURT: -- employment discrimination case

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1 has become due to lots and lots of issues. At the
2 Brennan Center we used to joke when things would like
3 become an octopus. This case has become an octopus when
4 there is really one plaintiff who is the core
5 complainant.

6 And so I'm not casting aspersions on anybody.
7 I think the complexities have come from various corners
8 in the case and, you know, I really do -- I wish you
9 could see my face. I'm smiling. I'm not upset about it.
10 It's just it has become complicated. And the discovery
11 is voluminous as we know.

12 So I'm just concerned that even if I were to
13 grant your application to keep the deposition shorter,
14 that we would still be facing the same problem on Friday
15 afternoon.

16 MR. LICUL: Well, a couple of things. You
17 know, I don't think this is a particularly complicated
18 sexual harassment case. This is not a discrimination
19 case in the sense of talking about why someone was fired
20 and getting into issues of pretext which can be rather
21 complicated.

22 We have a finite set of allegations that they
23 can ask Trooper 1 about which are essentially 40
24 paragraphs. Really it's not that many incidents. So I
25 don't necessarily agree with defendants that this is

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1 somehow inordinately complicated.

2 I do think though that if we give them a, or
3 the Court gives them rather the full seven hours, they
4 will take the seven hours. And I do think that that's
5 exactly what the rule is designed to prohibit. It
6 requires folks to focus on the important things and not
7 to meander. And giving them seven hours is going to
8 allow for exactly that because I do not hear in anything
9 that they've said seven hours worth of questioning. And
10 I'm afraid we're going to be going back, you know, with
11 respect to issues that have already been covered.

12 I would suggest, your Honor, if your Honor is
13 going to do four hours, I suggest we do that. Require
14 the defendants to focus, sharpen their questions, not ask
15 the same question over and over again. And if they still
16 have something left at the end of that four hours, I'm
17 willing to talk about it but it should be narrowed. It
18 should.

19 THE COURT: Ms. Glavin?

20 MS. GLAVIN: Your Honor, I just have to correct
21 the record on this. I asked Mr. Licul to look through
22 the transcript and see if there was a single question
23 that asked about the Belmont stomach incident. There was
24 not.

25 Your Honor, I get it why Mr. Licul wants to

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1 limit it. I don't think it changes what we have all
2 tried to do on the defense side with this. And it's
3 particularly because we are hearing new allegations from
4 Trooper 1 for the first time, things that were not in her
5 first complaint, her amended complaint, or the proposed
6 complaint that is pending, the proposed amended complaint
7 that is pending before Judge DeArcy Hall, allegations
8 that she did not make to the Attorney General's office or
9 anybody else until she was in that deposition that we had
10 to explore and that took time.

11 I don't know if she will have additional
12 allegations as we go through these incidents that were
13 not done in detail by the Attorney General's office, but
14 they are critically important as to whether or not she
15 was sexually harassed by Governor Cuomo, whether or not
16 there was retaliation or any type of a quote/unquote
17 hostile work environment.

18 And also, going to her state of mind because
19 there are a number of allegations in her complaint
20 dealing with what she believed based on what she heard
21 from other state troopers.

22 MS. FOTI: Your Honor, it's Catherine Foti.
23 Can I just add that in some respects I feel like Mr.
24 Licul is completely ignoring the fact that there are two
25 other defendants here. The state police did identify

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1 very clear different issues that did not apply to either
2 former Governor Cuomo or to my client. They've only
3 asked for two, two and a half hours. We're asking for
4 one, one and a half hours in a situation where my client
5 has been defending this lawsuit for, you know, for two
6 years and trying to understand exactly why she is in the
7 lawsuit. And I don't think an hour or even an hour and a
8 half is, you know, is very much.

9 And so we have significantly limited the time
10 that we are requesting to understand why my client is a
11 party here. I think she's entitled to have that. And
12 there are certainly in the other issues which are really
13 sort of stepping stones to somehow establishing any type
14 of liability for my client. It's appropriate for Ms.
15 Glavin to go through those issues. I mean we need all of
16 those covered as well and we're only asking for a very
17 small slice of time in addition to that.

18 And I think if you look at it, two and a half
19 and one and a half, we're up to three to four hours just
20 between the other two parties. And so it's no that much
21 additional time that we would even spend, Ms. Glavin
22 would even be entitled to have, to cover all those
23 additional issues that really were in part -- we are
24 banking on getting some answers to to try to understand
25 the liability for our own client.

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1 I just really would appreciate if we can have
2 the additional time, one day. It is not unusual in a
3 case of this nature to have the plaintiff deposed for two
4 days rather than one.

5 THE COURT: All right. So I fully understand
6 where you're coming from, Mr. Licul. And I of course
7 agree with you that -- and I joke around with my law
8 clerks that the legal process will take however long you
9 give them. Right? If you have a day to get a motion
10 out, you get it done in a day. If you have two weeks,
11 you manage to make it take two weeks. Right? And I
12 fully get it that you are concerned that they will use
13 the full seven hours if I were to grant that amount of
14 time.

15 But your answer to my prior question really did
16 not address what I was getting at. What I was
17 suggesting, sir, with respect to all involved in this
18 case, is it has become needlessly complicated. I've been
19 saying this for two years. It's become complicated from
20 all sides. It's become complicated with regard to the
21 discovery production, it's become complicated with regard
22 to how the complaint is structured.

23 You know, Ms. Glavin absolutely needs to go
24 through with Trooper 1 do you know Charlotte Bennett?
25 How? Did you observe anything with Charlotte Bennett?

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1 Did you know so and so? Did you hear anything that
2 happened to her? She has to go through all that stuff
3 because of the way the complaint is drafted. Perhaps she
4 should have done it in the prior session. I don't know.
5 But here we are with two defendants, three defendants,
6 who need to continue the deposition.

7 So what I'm inclined to do is, you know, the
8 parties have said -- the state police has indicated two
9 hours, two and a half hours and Ms. Foti has indicated
10 one to one and a half hours. So there we're talking
11 three to four hours in total. And Mr. Cuomo suggested
12 that he needs, you know, three to four more hours.

13 I am prepared to give you guys six hours
14 collectively and that's it. So you need to be more
15 strategic, Ms. Glavin. You need to figure out how to get
16 to the questions, how to get to the point. As I said a
17 couple of minutes ago, this is not a proffer. You don't
18 get to go down every single rabbit hole even if it seems
19 potentially interesting in the moment because you aren't
20 going to have time. If there's stuff you need to have an
21 on the record answer for, you got to get to it. And if
22 there's stuff that would just be fun to cross on, you
23 might have to wait for the trial if there's a trial. I
24 understand you might want to have her on the record but
25 you have to be mindful of the amount of time that you

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1 have under the rules.

2 I also note with regard to my decision to
3 extend the time that Federal Rules of Civil Procedure
4 30(d) specifically states that the Court must, and I put
5 an emphasis on the word must, allow additional time
6 consistent with Rule 26(b)(1) and (2) if needed to fairly
7 examine the deponent. Given the fact that this is a
8 three defendant case and that the allegations are
9 substantial and there is a substantial body or volume of
10 information that has been generated by the Attorney
11 General's office and in discovery that the defendants
12 fairly wish to cover, I think six hours, you know, five
13 extra hours of deposition time is an appropriate
14 extension of the amount of time to which the defendants
15 in this case should be permitted to utilize. I
16 understand, Mr. Licul, that you may object to that
17 ruling. That is my opinion and that is my decision.

18 So I really do mean it though, for the
19 defendants, that's it. Anything that comes back to me on
20 Friday afternoon or Monday that you need more time with
21 Trooper 1, the answer is going to be application denied.

22 Is there anything else we should cover today,
23 Mr. Licul?

24 MR. LICUL: No. Thank you, your Honor.

25 THE COURT: Ms. Glavin?

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1 MS. GLAVIN: No, your Honor.

2 THE COURT: Mr. Moore?

3 MR. MOORE: No, your Honor. Thank you for your
4 time.

5 THE COURT: Ms. Foti?

6 MS. FOTI: No, that's all. Thank you very
7 much, your Honor.

8 THE COURT: All right. Thank you all. Have a
9 good rest of your day. Take care.

10 (Matter concluded)

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C E R T I F I C A T E

I, MARY GRECO, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 14th day of November, 2024.


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